

## LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

### Notice of Intended Action

#### **Proposing rule making related to administrative rules review, continuing education, and criminal convictions and providing an opportunity for public comment**

The Landscape Architectural Examining Board hereby proposes to amend Chapter 1, “Description of Organization,” Chapter 2, “Examinations and Licensing,” Chapter 3, “Continuing Education,” and Chapter 4, “Rules of Professional Conduct and Discipline Procedures,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 544B.5.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 544B.5 and 2020 Iowa Acts, House File 2627.

#### *Purpose and Summary*

The proposed amendments implement changes to improve readability of the rules and implement the five-year rolling review of administrative rules as outlined in Iowa Code section 17A.7(2). This proposed rule making is adding the criminal conviction eligibility determination available prior to submittal of an application for licensure, with a \$25 fee to cover the associated costs as set forth in 2020 Iowa Acts, House File 2627.

#### *Fiscal Impact*

This rule making has minimal fiscal impact to the State of Iowa. It is unknown how many individuals will seek an eligibility determination due to their criminal conviction prior to applying, which would result in a \$25 fee to cover the associated costs as set forth in 2020 Iowa Acts, House File 2627.

#### *Jobs Impact*

After analysis and review of this rule making, there is a potential positive impact on jobs as individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 193—Chapter 5.

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on March 2, 2021. Comments should be directed to:

Jill Simbro  
Landscape Architectural Examining Board  
200 East Grand Avenue, Suite 350  
Des Moines, Iowa 50309  
Email: [jill.simbro@iowa.gov](mailto:jill.simbro@iowa.gov)

### *Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

March 2, 2021  
2:30 to 3 p.m.

Board Office, Suite 350  
200 East Grand Avenue  
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following new definitions of “Inactive” and “Retired” in rule **193D—1.1(544B,17A)**:

“*Inactive*” means that a landscape architect is not engaged in Iowa in any practice for which a certificate of licensure is required.

“*Retired*” means that a landscape architect is not engaged in the practice of landscape architecture or earning monetary compensation by providing professional landscape architectural services in any licensing jurisdiction of the United States or a foreign country.

ITEM 2. Amend rule 193D—1.2(544B,17A) as follows:

**193D—1.2(544B,17A) Organization and duties.** The board consists of five members who are licensed professional landscape architects and two members who are not licensed professional landscape architects and who represent the general public.

**1.2(1) Qualifications of professional landscape architect board members.** Four of the five professional members shall be actively engaged in the practice of landscape architecture or the teaching of landscape architecture in an accredited college or university, and shall have been so engaged for five years preceding appointment, the last two of which shall have been in Iowa. One of the five professional members shall be actively engaged in the practice of landscape architecture or the teaching of landscape architecture in an accredited college or university, and may have been so engaged for fewer than five years preceding.

**1.2(2) Election of chairperson and vice chairperson.** The board elects annually from its members a chairperson and a vice chairperson. A quorum of the board shall be four members, and all final motions and actions must receive a vote by a majority of the members of the board.

**1.2(3) Duties of board.** The board enforces the provisions of Iowa Code chapter 544B and makes rules for the examination of applications for licensure. The board keeps records of its proceedings. The board adopts an official seal which is affixed to all certificates of licensure granted. The board makes other rules, not inconsistent with law, as necessary for the proper performance of its duties. The board maintains a roster of all licensed professional landscape architects showing the name, place of business, residence, and date and number of the certificate of licensure of every professional landscape architect in the state.

**1.2(4) Chairperson Duties of chairperson.** The chairperson shall, when present, preside at meetings, appoint committees, and perform all duties and powers of the chairperson.

~~1.2(2)~~ **1.2(5)** *Vice Duties of vice chairperson.* The vice chairperson shall, in the absence or incapacity of the chairperson, exercise the duties and powers of the chairperson.

ITEM 3. Amend subrule 1.10(2) as follows:

**1.10(2)** The ~~executive officer~~ board administrator shall, upon receipt of a petition that meets all applicable criteria established in 193—Chapter 5, present the request to the board chairperson or vice chairperson along with all pertinent information regarding established precedent for granting or denying such requests.

ITEM 4. Rescind rule 193D—2.2(544B,17A) and adopt the following new rule in lieu thereof:

**193D—2.2(544B,17A) Application for licensure by examination.**

**2.2(1)** Candidates shall contact CLARB to start the examination licensure process by creating a council record. A candidate's council record will include verified history of the candidate's education, experience, examination and licensure history, and professional references and is used to apply for examination, licensure and certification.

**2.2(2)** The candidate who successfully completes the LARE may make application for certificate of licensure to the board after meeting one of the requirements listed below and requesting that the candidate's council record be transmitted to the board.

*a.* Graduation from a course in landscape architecture in a school, college, or university offering an accredited minimum four-year curriculum in landscape architecture, and a minimum of three years of practical experience in landscape architectural work which in the opinion of the board is of satisfactory character, at least one year of which must be under the supervision of a professional landscape architect or a person who becomes a professional landscape architect within one year after July 1, 2002.

*b.* Graduation from a nonaccredited course of landscape architecture of a minimum of four years in a school, college, or university and a minimum of four years of practical experience in landscape architectural work which in the opinion of the board is of satisfactory character, at least one year of which must be under the supervision of a professional landscape architect.

*c.* A minimum of ten years of practical experience in landscape architectural work which in the opinion of the board is of satisfactory character to properly prepare the applicant for the examination.

**2.2(3)** A satisfactorily completed year of study in an accredited course of landscape architecture in an accredited school, college, or university may be accepted in lieu of one year of practical experience.

**2.2(4)** A master's degree from an accredited school, college, or university may be accepted in lieu of one year of practical experience.

**2.2(5)** Any four-year college or university degree may be accepted in lieu of two years of practical experience.

ITEM 5. Amend rule 193D—2.3(544B,17A) as follows:

**193D—2.3(544B,17A) Procedure for processing applications.** ~~Each application shall be considered individually by the board. The board authorizes the chairperson to review applications between board meetings. The chairperson will determine if the applications meet the requirements for approval or will need full board review. A~~ The board administrator shall determine when the legal requirements for licensure have been satisfied with regard to issuance of certificates, licenses or registrations, and the board administrator shall submit to the board any questionable application. An applicant's personal appearance before the board, if required, shall be at the time and place designated by the board. Failure to supply additional evidence or information within 30 days from the date of the written request from the board, or failure to appear before the board when an appearance is requested, may be considered cause for disapproval of the application. Unless otherwise provided by law, a request for a rehearing before the board shall be filed with the board in accordance with rule 193—7.39(543,272C). A judicial review can be filed in accordance with Iowa Code section 17A.19.

ITEM 6. Amend rule 193D—2.4(544B,17A) as follows:

**193D—2.4(544B,17A) Examination Registration of applicants.** ~~Examinations shall be conducted by the board at least once annually. Applicants need not meet preconditions to take the professional landscape architectural licensure examination, but applicants~~ Applicants must meet requirements of Iowa Code section 544B.9 for registration.

ITEM 7. Amend rule 193D—2.5(544B,17A) as follows:

**193D—2.5(544B,17A) Written examination.** The written examination shall consist of the professional landscape architectural licensure examination published by CLARB and may include supplementary questions developed by the board.

~~2.5(1) Instructions.~~ ~~A copy of examination instructions and notice of the date and location of the examination will be furnished to each applicant at least 30 days in advance of the examination. The examination is divided into several sections. An applicant may sit for any or all of the sections at a single sitting. Sections which are passed are not required to be repeated. An applicant who intends to sit for any sections not previously passed must file an application for reexamination with the proper fee(s) on a form provided by the board which must be received in the board office no later than the last day of March for the June examination and the last day of September for the December examination.~~

~~2.5(2) Grades.~~ The board shall notify the examinee of the examination grade.

~~2.5(3) Examinations review process.~~ Candidates may review their own graded examinations using the following procedures:

~~a. Within a maximum of 30 days from the date of the notification of failure, a written request by the candidate may be filed with the Iowa landscape architectural examining board to include:~~

~~(1) Candidate number or name.~~

~~(2) Date of examination.~~

~~(3) Examination section requested to be reviewed.~~

~~b. The review time for each failed section may be limited by the board.~~

~~c. A board member or staff person must be present to observe and to provide assistance to the candidate.~~

~~d. There shall be no copying or tracing allowed; however, a candidate may take notes.~~

~~e. A candidate shall be allowed to review all of the candidate's examination, including evaluation guides and evaluators' score sheets.~~

~~f. The candidate shall sign a statement stating the terms of the review procedure.~~

ITEM 8. Amend rule 193D—2.7(544B,17A), introductory paragraph, as follows:

**193D—2.7(544B,17A) Certificate of licensure.** When an applicant has qualified for licensure under this chapter and has paid the required license fee, the secretary shall enroll the applicant's name in the roster of professional landscape architects and issue to the applicant a certificate of licensure ~~signed by the chairperson and vice chairperson of the board.~~

ITEM 9. Amend rule 193D—2.8(17A,272C,544B) as follows:

**193D—2.8(17A,272C,544B) Renewal of certificates of licensure.** Certificates of licensure expire biennially on June 30. In order to maintain authorization to practice in Iowa, a licensee is required to renew the certificate of licensure prior to ~~the expiration date~~ June 30 of the year of expiration. ~~However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days prior to the date of expiration.~~ A licensee who fails to renew by the expiration date is not authorized to practice landscape architecture in Iowa until the certificate is reinstated as provided in rule 193D—2.9(544B,17A).

**2.8(1)** It is the policy of the board to ~~e-mail~~ email to each licensee a notice of the pending expiration date at the licensee's last-known address approximately one month prior to the date the certificate of licensure is scheduled to expire. Failure to receive this notice does not relieve the licensee of the

responsibility to timely renew the certificate and pay the renewal fee. A licensee should contact the board office if the licensee does not receive a renewal notice prior to the date of expiration.

**2.8(2)** If grounds exist to deny a timely and sufficient application to renew, the board shall send ~~written~~ notification to the applicant ~~by restricted certified mail, return receipt requested~~. Grounds may exist to deny an application to renew if, for instance, the licensee failed to satisfy the continuing education as required as a condition for licensure. If the basis for denial is pending disciplinary action or disciplinary investigation that is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board’s decision as provided in 193—subrule 7.40(1).

**2.8(3)** When a licensee appears to be in violation of mandatory continuing education requirements, and after or in lieu of giving the licensee an opportunity to come into compliance under 193D—subrule 3.3(3), the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), offer the licensee the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the licensee complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the licensee. Any additional hours completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A licensee is free to accept or reject the offer. If the offer of settlement is accepted, the licensee will be issued a renewed certificate of licensure and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the licensee pursuant to 193—subrule 7.40(1).

**2.8(4) to 2.8(7)** No change.

**2.8(8)** Inactive status. This subrule establishes a procedure under which a person issued a certificate of licensure as a landscape architect may apply to the board to register as inactive. Licensure under this subrule is available to a licensee residing within or outside the state of Iowa who is not using the title “landscape architect” while offering services as a landscape architect. A person eligible to register as inactive may, as an alternative to licensure, allow the certificate of licensure to lapse. During any period of inactive status, a person shall not engage in the practice of landscape architecture while using the title “landscape architect” or any other title that might imply that the person is offering services as a landscape architect in violation of Iowa Code section 544B.18. The board will continue to maintain a database of persons ~~registered~~ licensed as inactive, including information which is not routinely maintained after a certificate of licensure has lapsed through the person’s failure to renew. A person who registers as inactive will accordingly receive a renewal notice if the notice is sent by the board, board newsletters, and other mass communications from the board.

*a. Affirmation.* The renewal application shall contain a statement in which the applicant affirms that the applicant will not engage in the practice of landscape architecture while using the title “landscape architect” in violation of Iowa Code section 544B.18, without first complying with all rules governing reinstatement to active status. A person in inactive status may reinstate to active status at any time pursuant to rule 193D—2.9(544B,17A).

*b. Renewal.* A person ~~registered~~ licensed as inactive may renew the person’s certificate of licensure on the biennial schedule described in ~~193D—2.8(544B,272C,17A)~~ this rule. This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in ~~193D—2.10(544B,17A)~~ rule 193D—2.11(544B,17A). An inactive certificate of licensure shall lapse if not timely renewed.

*c. Permitted practices.* A person may, while ~~registered~~ licensed as inactive or retired, perform for a client, business, employer, government body, or other entity those services which may lawfully be provided by a person to whom a certificate of licensure has never been issued. For an “inactive” licensee, such services may be performed as long as the person does not in connection with such services use the title “landscape architect” or any other title restricted for use only by landscape architects pursuant to Iowa Code section 544B.18 (with or without additional designations such as “inactive”). Restricted titles

may be used only by active landscape architects who are subject to continuing education requirements to ensure that the use of such titles is consistently associated with the maintenance of competency through continuing education. A “professional landscape architect, retired” may use the “professional landscape architect, retired” title; however, the person shall inform anyone to whom the person is providing services that the person once held an active landscape architect license but is no longer actively licensed or permitted to practice landscape architecture.

*d. Prohibited practices.* A person who, while ~~registered~~ licensed as inactive, engages in any of the practices described in Iowa Code section 544B.18 is subject to disciplinary action.

ITEM 10. Renumber rule **193D—2.10(544B,17A)** as **193D—2.11(544B,17A)**.

ITEM 11. Adopt the following new rule 193D—2.10(544B,17A):

**193D—2.10(544B,17A) Responsibility for accuracy of applications.** The landscape architect is responsible for verifying the accuracy of the information submitted on applications regardless of how the application is submitted or by whom it is submitted. For instance, if the office manager of a landscape architect’s firm submits an application for renewal on behalf of the landscape architect and that information is incorrect, the landscape architect will be held responsible for the information and may be subject to disciplinary action.

ITEM 12. Amend renumbered rule 193D—2.11(544B,17A) as follows:

**193D—2.11(544B,17A) Fee schedule.** The appropriate fee shall accompany the application.

Fees for examination subjects shall be paid directly to the testing service selected by CLARB.

Exemption fee	\$300
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(This certificate of licensure is to be effective to the June 30 which is at least 12 months beyond the date of the application.)

Wall certificate replacement fee	\$25
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Certificate of licensure fee	\$15/month
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(This certificate of licensure is to be effective the day of board action until June 30.)

Biennial licensure fee (active)	\$350
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Biennial licensure fee (inactive)	\$100
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Late renewal fee	\$25
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(for renewals ~~postmarked~~ submitted on or after July 1 and before July 30)

“Professional landscape architect, retired” status	\$0 (No fee)
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Reinstatement of lapsed licensure to active status	\$100 + renewal fee + \$25 per month or partial month of lapsed licensure; not to exceed \$750
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Reinstatement of inactive or retired status to active status	\$350
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(If less than 12 months from the next biennial renewal, one-half of the current active licensure fee shall be paid.)

<u>Prelicensure determination fee</u>	<u>\$25</u>
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ITEM 13. Amend paragraph **3.3(1)“g”** as follows:

*g.* In instances of service on a professional or community board, or other undocumented hours of continuing education (non-HSW documentation such as LU, PDH), the licensee shall provide a narrative

description of the materials the licensee reviewed, the nature of the licensee's service, and a description as to how the licensee's claimed hours of continuing education have contributed to the health, safety and welfare of the public.

ITEM 14. Amend subrule 3.3(2) as follows:

**3.3(2)** A professional landscape architect's continuing education report forms or online renewal may be selected for review by the board for verification of compliance with these requirements. Evidence of compliance shall be maintained by the professional landscape architect for two years after the period for which the form was submitted and shall include written verification of attendance by someone other than the licensee. Examples of evidence may include, but are not limited to, a certificate of completion presented by the program sponsor, a letter from an employer verifying attendance at an in-firm training session, or copies of minutes from public service meetings. Canceled checks, slideshow presentations, email confirmation or receipts for payments of fees to attend a program are not evidence of actual attendance and are not acceptable.

ITEM 15. Rescind subrule 3.3(3) and adopt the following new subrule in lieu thereof:

**3.3(3)** Any discrepancy between the number of continuing education hours reported and the number of continuing education hours actually supported by documentation may result in a disciplinary review. If, after the disciplinary review, the board disallows any continuing education hours, or the licensee has failed to complete the required continuing education hours, the landscape architect shall have 60 days from board notice to either provide further evidence of having completed the continuing education hours disallowed or remedy the discrepancy by completing the required number of continuing education hours (provided that such continuing education hours shall not again be used for the next renewal). Extension of time may be granted on an individual basis and must be requested by the licensee within 30 days of notification by the board. If the licensee fails to comply with the requirements of this subrule, the licensee may be subject to disciplinary action.

ITEM 16. Amend paragraph **4.1(7)“b”** as follows:

*b.* Description of seal. The diameter of the outside circle shall be approximately 1¾ inches. The seal shall include the name of the professional landscape architect and the words “Professional Landscape Architect, State of Iowa.” The professional landscape architect's Iowa license number ~~and the word “Iowa”~~ shall be included. The seal shall substantially conform to the sample shown below:

